

Chapter 2. THE ENVIRONMENTAL DOCUMENT

2.1 Proposed Project

For purposes of the California Environmental Quality Act (CEQA) and this Environmental Document (ED), the proposed project consists of the creation of a network of marine protected areas within the Channel Islands National Marine Sanctuary (Sanctuary). The network consists of ten State Marine Reserves (no take allowed) and two State Marine Conservation Areas (limited recreational and/or commercial take allowed). The total area protected within marine reserves in the proposed project is approximately ~~444~~ **132** square nautical miles, or 19 percent of State waters within the Channel Islands National Marine Sanctuary. The cumulative area which includes a potential Federal waters phase is approximately ~~279~~ **322** square nautical miles, or 25 percent of the Sanctuary. The specific proposal is detailed in Chapter 3.

The project proposes a network approach to meet goals established by the Marine Reserves Working Group, and attempts to address State policies and laws (Appendix 1). Detailed analyses of the types of habitats found in each reserve are provided in Chapter 5. The approach of using a network of marine protected areas allows for management of whole ecosystems, including a variety of representative habitats and the species that depend on them. This approach differs from species-specific management and moves towards a more ecosystem based comprehensive management strategy.

2.2 California Environmental Quality Act

This document is intended to fulfill the Commission's obligation to comply with CEQA (Pub. Resources Code, Section 21000 et seq.) in considering and adopting regulations for marine protected areas in the project area. In general, public agencies in California must comply with CEQA whenever they propose to approve or carry out a discretionary project that may have a potentially significant adverse impact on the environment. Where approval of such a project may result in such an impact, CEQA generally requires the lead public agency to prepare an Environmental Impact Report (EIR). In contrast, where no potentially significant impacts could result with project approval, a lead agency may prepare what is commonly known as a negative declaration. Where an EIR is required, however, the document must identify all reasonably foreseeable, potentially significant, adverse environmental impacts that may result from approval of the proposed project, as well as potentially feasible mitigation measures and alternatives to reduce or avoid such impacts. Because the lead agency must also subject the EIR to public review and comment, and because the agency must respond in writing to any public comments raising significant environmental issues, compliance with CEQA serves to protect the environment and to foster informed public decision-making.

The Legislature enacted CEQA in 1970 to serve primarily as a means to require public agency decision makers to document and consider the environmental implications of their actions. In so doing, CEQA is premised on a number of Legislative findings and declarations, including a finding that it is "necessary to provide a high-quality environment that at all times is healthful and pleasing to the senses and intellect of man" (Public Resources Code Section 21000 subd. (b)). CEQA also codifies State policy to, among other things, "[p]revent the elimination of fish or wildlife species due to man's activities, insure that fish and wildlife populations do not drop below self perpetuating levels, and preserve for future generations representations of all plant and animal communities and examples of the major periods of California history." (Id., Section 21001, subd. c). A similar provision in the Fish and Game Code also declares: "It is hereby declared to be the policy of the State to encourage the conservation, maintenance, and utilization of the living resources of the ocean and other waters under the jurisdiction and influence of the State for the benefit of all the citizens of the State and to promote the development of local fisheries and distant-water fisheries based in California in harmony with international law respecting fishing and the conservation of the living resources of the oceans and other waters under the jurisdiction and influence of the State" (Fish and Game Code Section 1700).

CEQA applies to all "governmental agencies at all levels" in California, including "State agencies, boards, and commissions." (Pub. Resources Code, Section 21000, subd. (g), 21001, subds. (f), (g)). Public agencies, in turn, must comply with CEQA whenever they propose to approve or carry out a discretionary project that may have a significant effect on the environment. (See generally Id., Section 21080). For purposes of CEQA, a project includes "an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment," that is, like the proposed project, "directly undertaken by any public agency." (Id., Section 21065, subd. a). Moreover, as mandated by the Legislature, "it is the policy of the State that projects to be carried out by public agencies be subject to the same level of review and consideration under [CEQA] as that of project projects required to be approved by public agencies." (Id., Section 21001.1).

CEQA also provides an alternative to preparation of an EIR or negative declaration in limited circumstances. Under CEQA, the Secretary of Resources is authorized to certify that a State regulatory program meeting certain environmental standards provides functionally equivalent environmental review to that required by CEQA (Pub. Resources Code, Section 21080.5; see also CEQA Guidelines, Section 15250-15253; the "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000). As noted by the California Supreme Court, "[c]ertain State agencies, operating under their own regulatory programs, generate a plan or other environmental review document that serves as the functional equivalent of an EIR. Because the plan or document is generally narrower in scope than an EIR, environmental review can be completed more expeditiously. To qualify, the agency's regulatory program must be certified by the Secretary of the Resources Agency. An agency operating pursuant to a certified regulatory program must comply with all of CEQA other requirements." [Mountain

Lion Foundation v. Fish and Game Comm. (1997) 16 Cal.4th 105, 113-114 (internal citations omitted)].

The Commission's CEQA compliance with respect to the marine protected area regulations is governed by a regulatory program certified by the Secretary of Resources [CEQA Guidelines, Section 15251, subd. (b)]. The specific requirements of the program are set forth in Title 14 of the California Code of Regulations in the section governing the Commission's adoption of new or amended regulations, as recommended by the Department (Cal. Code Regs., tit. 14, Section 781.5). Pursuant to section 781.5, this Environmental Document contains and addresses the proposed marine protected areas and associated implementing regulations, reasonable alternatives to the proposed areas, and potentially feasible mitigation measures to avoid or minimize any significant adverse impacts associated with adoption and implementation of these marine protected areas [Id., Section 781.5, subd. (a)(1)-(3)]. In so doing, the ED portion of the present document is intended to serve as the functional equivalent of an EIR under CEQA. As noted above, however, preparation of the ED is not a "blanket exemption" from all of CEQA's requirements [Environmental Protection Information Center v. Johnson (1985) 170 Cal.App.3d 604, 616-618; see also Wildlife Alive v. Chickering (1976) 18 Cal.3d 190]. Instead, the Commission must adhere to and comply with the requirements of its certified program, as well as "those provisions of CEQA from which it has not been specifically exempted by the Legislature" [Sierra Club v. State Board of Forestry (1994) 7 Cal.4th 1215, 1228].

Unlike its "procedural" Federal counterpart, the National Environmental Policy Act (NEPA) (42 U.S.C. Section 4321 et seq.), CEQA contains a "substantive mandate" that public agencies refrain from approving projects with significant environmental effects if there are not feasible mitigation measures or alternatives that can substantially lessen or avoid those effects. (Mountain Lion Foundation, supra, 16 Cal.4th at p. 134; Pub. Resources Code, Section 21002). CEQA, as a result, "compels government first to identify the [significant] environmental effects of projects, and then to mitigate those adverse effects through the imposition of feasible mitigation measures or through the selection of feasible alternatives." (Sierra Club v. State Board of Forestry (1994) 7 Cal.4th 1215, 1233; see also Sierra Club v. Gilroy City Council (1990) 222 Cal.App.3d 30, 41).

Public agencies fulfill CEQA's mandate through required consultation with other interested public agencies and the public; preparation of EIRs, functional equivalent documents, or other appropriate CEQA analysis; subjecting their environmental analyses to public review and comment, and preparing responses to public comments concerning the environmental impacts associated with their proposed projects; and ultimately adopting findings detailing compliance with CEQA's substantive mandate. In this respect, the CEQA process "protects not only the environment but also informed self-government." (Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 564 (internal quotation marks deleted)). Indeed, as recently underscored by the California Supreme Court, compliance

with these requirements, even in the context of a certified regulatory program, "ensures that members of the [governmental decision making body] will fully consider the information necessary to render decisions that intelligently take into account the environmental consequences. Its also promotes the policy of citizen input underlying CEQA." (Mountain Lion Foundation, supra, 16 Cal.4th at p. 133 (internal citations omitted)).

2.3 Functional Equivalent

CEQA requires all public agencies in the State to evaluate the environmental impacts of projects that they approve or carry out. If there are potentially significant environmental impacts, most agencies satisfy this requirement by preparing an Environmental Impact Report (EIR). If no potentially significant impacts exist, a Negative Declaration (ND) is prepared. However, an alternative to the EIR/ND requirement exists for State agencies with activities that include protection of the environment as part of their regulatory program. Under this alternative, an agency may request certification of its regulatory program from the Secretary for Resources. With certification, an agency may prepare functional equivalent Environmental Documents in lieu of EIRs or NDs. The regulatory program of the Fish and Game Commission has been certified by the Secretary for Resources. Therefore, the Commission is eligible to submit an Environmental Document in lieu of an EIR (CEQA Guidelines Section 15252).

The Department and the Commission hold the public trust for managing the State's fish and wildlife populations. That responsibility is fulfilled by staff including experts in marine resources management and enforcement issues. The knowledge and training represented by that expertise qualifies them to perform the review and analysis of the proposed project contained in this document.

2.4 Scope and Intended Use of Environmental Document

This Environmental Document contains a description of the proposed project and its environmental setting, potential effects of the proposed project, and reasonable alternatives to the project. It has been prepared pursuant to the California Environmental Quality Act (CEQA, Public Resources Code Section 21080.5) and the CEQA Guidelines (Title 14, Sections 750 - 781.5, California Code of Regulations). The document fully discloses potential cumulative impacts and provides a discussion of mitigation of adverse environmental effects related to the proposed project and the alternatives. In addition, it considers relevant policies of the Legislature and Commission.

This Environmental Document presents information to allow a comparison of the potential effects of reasonable alternatives. Analyses included in this document are split to include both the impacts of the proposed project (or State waters phase) and the cumulative impacts of this project and subsequent potential phases by other governing authorities. In

particular, a potential Federal waters MPA phase is analyzed for its cumulative biological and economic impacts, although the implementation of a Federal waters phase is not guaranteed. Other processes that may alter these impacts (e.g., fisheries management plans, and the Marine Life Protection Act) are also discussed where applicable.

All alternatives may not equally achieve the project's objectives. They are presented to provide the Commission and the public with additional information related to the options available. The alternatives take the form of amendment, or change to an existing body of regulations (Section 27.82, 630, and 632 Title 14, CCR). The no action alternative is also considered as required by CEQA (Section 15126, Public Resources Code).

2.5 Authorities and Responsibilities

The Commission has the authority to designate, delete, or modify State Marine Reserves and State Marine Conservation Areas (Sections 1590, 1591, Fish and Game Code) (Appendix 1). The Commission may also regulate commercial and recreational fishing and other taking of marine life within MPAs (Section 2860, Fish and Game Code) (Appendix 1). The Legislature has provided direction for the establishment of Marine Protected Area Networks in Fish and Game Code Sections 2851 and 2853 (Appendix 1). This direction includes the use of no-take marine reserves for the purpose of protecting the natural diversity of marine life and the structure, function, and integrity of marine ecosystems.

2.5.1 Jurisdictions of Coastal and Ocean Waters

The waters along and off the California coast include local, State, Federal, and international jurisdictions, including the State Tidelands and Submerged Lands (State Tidelands), the Outer Continental Shelf (OCS), the territorial sea, the contiguous zone, the exclusive economic zone, and high seas. The jurisdictions are used to describe areas of offshore ownership, sovereignty, various forms of mineral, fishery, national security rights, or regulatory controls. State Tidelands are owned, managed, and regulated by California. The Federal government has authority in the waters beyond State Tidelands, but this authority can be limited by international regimes.

State Tidelands Submerged Lands (mean high tide line to 3 nm offshore)

The Federal Submerged Lands Act of 1953 ~~granted~~ **confirmed** ownership of lands and resources within ~~this body of water~~ **three nautical miles of the mean high tide line** to coastal states such as California. This authority provides for State control and regulation of the development of resources such as oil and gas, and fisheries within this area.

Outer Continental Shelf (seaward of 3 nm from shore)

The Outer Continental Shelf Lands Act of 1953, passed in coordination with the Submerged Lands Act, confirmed Federal jurisdiction over the resources beyond 3 nm from shore and created a legal process for developing those resources.

Territorial Sea (shoreline to 12 nm offshore)

Pursuant to a 1988 presidential proclamation, the United States now asserts sovereign rights over the lands and waters out to 12 nm from shore. The previous territorial sea designation was coextensive with State Tidelands in California. This proclamation does not disturb the rights of states in the waters out to 3 nm established under the Submerged Lands Act.

Contiguous Zone (12 to 24 nm offshore)

Within the 12 to 24 nm area the United States can exercise control over customs, fiscal, immigration, and sanitary matters.

Exclusive Economic Zone (3 to 200 nm offshore)

Pursuant to a 1983 presidential proclamation, the United States asserts jurisdiction over the living and non-living resources within the exclusive economic zone (EEZ). While coastal states have primary jurisdiction and control over the first 3 miles of the EEZ, the Federal government has primary jurisdiction over and controls the remaining 197 miles. The Coastal Zone Management Act (CZMA), however, provides coastal states with substantial authority to influence Federal actions beyond 3 nm.

High Seas (beyond 12 nm from shore)

This designation includes all portions of the sea not included in the territorial sea of any nation. High seas are partially co-extensive with the contiguous zone (not formally adopted in the United States) and the EEZ. The primary characteristic of high seas is a nation's right to freely navigate its vessels (including war vessels) with this area.

The proposed reserves are located within waters that are under the jurisdiction of the State of California as granted in the Submerged Lands Act of 1953 (sections 1301-1315, Title

43, United States Code). The California Department of Fish and Game, within the Resources Agency, is the lead State agency responsible for managing living marine resources. The Fish and Game Commission has authority to designate, delete, or modify State marine recreational management areas established by the Commission for hunting purposes, State marine reserves, and State marine conservation areas, as delineated in Public Resources Code Section 36725(a), and to incorporate by reference the provisions of the Marine Managed Areas Improvement Act (Sections 1590 and 159, Fish and Game Code).

2.5.2 Resource Based Agencies and Commissions

There are a number of State and Federal agencies and Commissions that have jurisdictional and regulatory responsibility over California coastal marine and ocean resources. Ocean resource management in California falls under the authority of two executive branch agencies, the Resources Agency (Department of Fish and Game, 2.5.1) and the California Environmental Protection Agency (Cal EPA). While the authority to manage the majority of ocean management issues rest with the California Resources Agency, Cal EPA oversees development of ocean water quality standards and regulation of waste discharges to the marine environment. Federal jurisdiction over ocean resources is divided among seven large departments, including the Departments of Agriculture, Commerce, Defense, the Interior, and Transportation; the Food and Drug Administration; and the U.S. EPA. Many of these have some jurisdiction or responsibilities within the project area.

California Coastal Commission

The Coastal Commission is responsible for administering the California Coastal Act and the federally approved California Coastal Management Program pursuant to the Coastal Zone Management Act. Coastal Act policies implemented by the Coastal Commission address issues such as public access and recreation, natural resource protection, agricultural operation, coastal development projects, port activities, and energy production. Jurisdiction is within the 1,100-mile-long coastal zone, which encompasses 1.5 million acres of land and ~~extends 3 nautical miles out to sea and~~ up to 5 miles inland from the mean high tide line. **This jurisdiction also extends into the ocean to the Federal waters limit through the Coastal Commission's federal consistency authority under the Coastal Zone Management Act.**

State Lands Commission

The California State Lands Commission (SLC) has jurisdiction over all of California's tide and submerged lands, and the beds of naturally navigable rivers and lakes each of which are sovereign lands, swamp, and overflow lands, and school lands (proprietary lands). Management responsibilities of the SLC extend to activities within submerged land and those within 3 nautical miles of shore. Pursuant to SLC administrative actions and recent legislative leasing restrictions, the SLC currently has no program for offshore oil and gas

leasing in State tidelands. However, the SLC carefully monitors existing offshore oil and gas activities to ensure revenue accountability, efficient resource recovery, and protection of the environment.

State Parks and Recreation Commission

The State Parks and Recreation Commission has authority to designate, delete, or modify State Marine Reserves, State Marine Parks, and State Marine Conservation Areas.

State Water Resources Control Board

The SWRCB and the nine RWQCBs establish California's water quality standards pursuant to the requirements of the state's Porter-Cologne Water Quality Control Act and the Federal Clean Water Act. The SWRCB has enveloped a series of statewide water quality control plans to set water quality standards for California. These include the Enclosed Bays and Estuaries Plan, the Thermal Water Quality Control Plan, and the California Ocean Plan (Ocean Plan). The Ocean Plan presents water quality objectives and establishes the basis for the regulation of waste discharges under the National Pollutant Discharge Elimination System (NPDES) program and permitting process. The SWRCB is responsible for adopting the Ocean Plan and the RWQCBs are responsible for interpretation and implementation of the Plan through issuance of NPDES permits and follow-up enforcement activity. The SWRCB has authority to designate, delete, or modify State Water Quality Protection Areas (previously known as Areas of Special Biological Significance, ASBS). The waters off San Miguel, Santa Rosa, and Santa Cruz Islands are designated as ASBSs.

The Ocean Plan identifies beneficial uses of marine waters that can be maintained through water quality control and establishes a set of narrative and numerical water quality objectives to protect these uses. Examples of such uses include marine life habitat, fish migration, fish spawning, shellfish harvesting, rare and endangered species habitat, recreation, industrial water supply, commercial and sport fishing, mariculture, aesthetics, and navigation.

National Oceanic and Atmospheric Administration (Department of Commerce)

The National Oceanic and Atmospheric Administration's (NOAA) ocean related responsibilities includes conducting a comprehensive and integrated program of marine policy, ocean, atmosphere, and Earth data collection and resource management, and providing grants for research, education, and advisory services. The five divisions within the NOAA are the National Environmental Satellite, Data, and Information Service; National Marine Fisheries Service; National Ocean Service; National Weather Service; and Office of Oceanic and Atmospheric Research.

National Marine Sanctuaries Program

Within NOAA is the National Marine Sanctuaries Program. This program designates and manages activities in marine sanctuaries. The Sanctuaries Program is responsible for administrating four National Marine Sanctuaries offshore California: the Monterey Bay, Gulf of the Farallons, Channel Islands, and Cordell Bank Sanctuaries. These sites were selected because they possess conservational, recreational, ecological, historical, research, educational, archaeological, cultural, and/or aesthetic qualities which give them special national, or in some instances international, significance.

The proposed project is within the boundaries of the Channel Islands National Marine Sanctuary. The primary purpose of the National Marine Sanctuary program is resource protection (16 U.S.C. Section 1431(b)). The Sanctuary conducts and facilitates resource management and protection, coordinates and participates in oceanographic and marine biological research and promotes education and public outreach.

National Marine Fisheries Service

Also within NOAA is the National Marine Fisheries Service (NMFS), which manages the sea's living resources between 3 and 200 miles seaward of the U.S. coast. NMFS has lead management responsibility for all marine mammals except sea otters, walrus, manatee/dugongs, and polar bears, all of which come under the authority of the U.S. Fish and Wildlife Service (USFWS). Sea turtles (at sea) are under the Federal ESA authority of NMFS, while seabirds are within the purview of the USFWS.

Pacific Fishery Management Council

The Pacific Fishery Management Council (Council) and seven other regional councils were created by the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) in 1976 with the primary role of developing, monitoring and revising management plans for fisheries conducted within 3 to 200 miles (the Exclusive Economic Zone) of the U.S. coast. The Council develops plans for ocean fisheries off California, Oregon and Washington in need of regional management. The Council is not a Federal agency, but is a regional body funded through the Department of Commerce (DOC). To date the Council has adopted and implemented a Pacific Coast Groundfish Fishery Management Plan, Pacific Coast Salmon Fishery Management Plan, and Coastal Pelagic Species Fishery Management Plan. They are in the process of adopting a West Coast Highly Migratory Species Fishery Management Plan.

National Park Service

The National Park Service (NPS) was established to conserve the natural scenery, wildlife, and natural and historic objects of the area. In addition, the NPS provides for the management of these resources for future generation. The agency manages national parks, monuments, historic sites, and recreation areas by developing and implementing park management plans. While their responsibilities are not specifically ocean or coastal oriented, NPS manages four coastal and recreational parks in California including the Channel Islands National Park. The jurisdiction for this park extends one nautical mile out from the shoreline of the islands. Additionally, to effectively manage the park system, the NPS conducts research to improve resource management, including for example, issuing permits for research on natural resources and archaeology, and monitoring resources and ecosystems within managed areas.

U.S. Fish and Wildlife Service

The US Fish and Wildlife Service (USFWS) is responsible for protecting and conserving fresh water and anadromous fisheries, wildlife (birds and most mammals) and their habitats for the benefit of the public. The USFWS monitors and implements programs for managing migratory birds and fish, national wildlife refuges and national fish hatcheries; restoration programs; listing, protection, and development of recovery programs under the Federal ESA for candidate species; the agency also comments on Federal proposals and federally permitted projects. The USFWS also provides research and support for international negotiation regarding fisheries, migratory wildlife, and protected species.

The USFWS has jurisdiction over freshwater and estuarine fishes and a regulatory role concerning Federal activities with potential impact on certain marine mammals (Southern sea otter, manatee/dugong, polar bear, walrus), migratory birds, sea turtles on shore, freshwater fishes, and endangered species onshore or within National Wildlife Refuges. Concerning jurisdiction over threatened or endangered marine species, the NMFS holds jurisdiction over most marine mammals (whales, seals, and seal lions), anadromous (salmon) and marine fisheries, while the USFWS holds jurisdiction on inland and freshwater species, and seabirds.

U.S. Environmental Protection Agency

The U.S. Environmental Protection Agency (U.S. EPA) was established to perform basically two functions: (1) research and development; and (2) abatement and control of pollution through a combination of research, monitoring, standard-setting, and enforcement activities. Although the U.S. EPA has no direct ocean resource management responsibilities, it administers and enforces various environmental protection statutes of general application, including the Federal Insecticide, Fungicide, and Rodenticide Act, under which it registers and regulates the use of pesticides or

approves State plans for that purpose. The products regulated include tributyltin, a component of ship bottom antifoulant paints, which has an adverse effect on nontarget marine life.

2.6 Public Input

The California Environmental Quality Act (CEQA) encourages public input. One of the primary purposes of the Environmental Document review process is to obtain public comment, as well as to inform the public and decision makers. The Department, in partnership with the Sanctuary, has encouraged and sponsored extensive public participation in considering marine reserves in the Sanctuary. It is the Department's intent to continue public participation in the formal environmental review process.

Prior to preparing this environment document (ED), the Department issued a Notice of Preparation (NOP). The NOP was provided to the State Clearinghouse for distribution as well as to affected agencies, interested organizations, and individuals.

CEQA encourages an early consultation, or scoping process to help identify the range of actions, alternatives, and significant effects to be analyzed in depth in an Environmental Document, and to help resolve concerns of affected agencies and individuals. The issue of Marine Protected Areas in the project area was initially discussed in public meetings of the Fish and Game Commission from 1998 through 1999. In addition to the NOP, the Department conducted and participated in as a cosponsor of 24 public meetings of the Channel Islands National Marine Sanctuary Marine Reserves Working Group (MRWG). This constituent group consisted of 17 members representing State and Federal Agencies, Conservation Interests, Consumptive Recreational and Commercial groups, the Public at Large, and California Sea Grant and discussed the issue of establishing new Marine Reserves in the Channel Islands area. MRWG meetings were held between July 1999 and June 2001 in Santa Barbara. Four informational and discussion forums were held to inform the public of MRWG decisions and gather input on potential Marine Protected Area networks. The forums were conducted on January 20, 2000 in Oxnard, October 12, 2000 in Goleta, March 21, 2001 in Santa Barbara, and May 23, 2001 in Santa Barbara. Written comments were also received during the MRWG process, these are summarized in Appendix 3. After this process the topic was again discussed in the Fish and Game Commission forum, with comments heard in late 2001 through 2002.

2.6.1 Marine Reserves Working Group Process

In 1999, the California Fish and Game Commission received a recommendation to set aside 20 percent of the shoreline and waters out to one mile in no-take marine reserves around the northern Channel Islands (Santa Barbara, Anacapa, Santa Cruz, Santa Rosa and San Miguel Islands). In response to this proposal and at the direction of the

Commission in response to the need for a process, the Channel Islands National Marine Sanctuary and the California Department of Fish and Game developed a joint Federal and State partnership to consider establishing marine reserves in the Sanctuary. In July 1999, the Channel Islands National Marine Sanctuary Advisory Council (SAC), an advisory body to the Sanctuary manager, created a stakeholder based community group called the Marine Reserves Working Group (MRWG). This constituent group consisted of 17 members representing State and Federal Agencies, Conservation Interests, Consumptive Recreational and Commercial groups, the Public at Large, and California Sea Grant.

The SAC also created a Science Advisory Panel and a Socio-Economic Panel to provide technical expertise and guidance. The MRWG collaborated for over 22 months between July 1999 and June 2001 to seek agreement on a recommendation to the SAC regarding the establishment of marine reserves within the Channel Islands National Marine Sanctuary.

The Department and Sanctuary jointly sponsored the Channel Islands Marine Reserves process, by hosting and chairing monthly meetings, providing funds for facilitation services and contract staff, contributing data and the full time services of agency personnel. Several offices within NOAA's National Ocean Service provided technical expertise, including the Special Projects Office and the Coastal Services Center. The Channel Islands National Park provided additional funds for facilitation services, invaluable data and the support from several staff members. MRWG and Science Panel members volunteered their time and effort.

The Working Group was established in response to:

- California Department Fish and Game and Channel Islands National Marine Sanctuary legislative purposes and mandates;
- A proposal to the California Fish and Game Commission for "no take" marine reserves in the Channel Islands National Marine Sanctuary area; and,
- The need to establish a community and stakeholder process for considering marine reserves in the Channel Islands National Marine Sanctuary for the California Fish and Game Commission.

MRWG deliberations were based on a consensus approach which required that the legitimate concerns of all members be satisfactorily addressed before the group as a whole could reach agreement. The MRWG's definition of consensus was that each member could state "whether or not I prefer this decision above all others, I will support it because it was reached fairly and openly." Through this approach the MRWG attempted to develop a recommendation and receive, weigh and integrate advice from its technical advisors (Science Advisory Panel and Socioeconomic Panel) and the general public.

The MRWG reached consensus on a Problem Statement, Mission Statement, Goals and objectives. These products were critical in guiding their discussions of Marine Protected Areas. The full text of each is found in Appendix 3.

The Sanctuary Advisory Council and MRWG established four primary tasks of the Science Advisory Panel (SAP). First, the SAP reviewed the literature on marine reserves and provided MRWG with potential natural resource consequences of reserves. They defined scientific criteria to achieve the objectives for biodiversity and fisheries defined by the MRWG. The SAP identified and evaluated existing data sets for GIS-based ecological characterization. Finally, the SAP evaluated the scientific merit of different reserve scenarios provided by the MRWG. The scientific evaluation of reserve designs is expanded in Chapters 5 for the Preferred Alternative and Chapter 6 for other alternatives.

The MRWG provided the framework for the scientific discussion of marine reserves by establishing goals for biodiversity conservation and fisheries management (Appendix 3). The MRWG determined that marine reserves should be used to protect representative and unique marine habitats, ecological processes, and populations of interest in the Sanctuary. The Science Advisory Panel provided a marine habitat classification to define "marine habitats" in the biodiversity goal. Further, the MRWG developed a list of 119 "species of interest", including plants, invertebrates, fish, seabirds, and marine mammals (Appendix 4). The Science Advisory Panel provided information on the distribution, status, preferred habitats, diet, and reproductive behavior of all species of interest. To achieve the goal of biodiversity conservation, the MRWG asked the Science Advisory Panel to develop criteria for design of reserves that would protect (1) representative and unique marine habitats in all biogeographical regions of the Sanctuary, (2) populations of interest, and (3) ecosystem services provided by physical, biological, or chemical processes.

A Socioeconomic Panel (Panel) was asked to provide baseline information and analyses on the use values associated with the project area, the potential costs, and where possible, benefits of the establishment of reserves. The Socioeconomic Panel was formed to provide information and analyses to the Marine Reserve Working Group (MRWG) of the Sanctuary Advisory Council (SAC) of the CINMS. An overview of the data analyzed by this Panel is described in the following text. The report completed by this Panel is referenced as Leeworthy and Wiley (2002).

A tremendous amount of information was collected and generated from 1999-2002 by the Socioeconomic Panel. Chapter 5 provides a general overview of the data collection and methods used in the socio-economic assessment. A more detailed overview of methods and data collective used in the socioeconomic analysis is found in Leeworthy and Wiley (2002).

2.6.2 Outcome of the Marine Reserves Working Group Process

Over the course of the nearly two year process the MRWG developed more than forty potential marine reserves maps. They were unable to reach consensus on a single map to recommend to the SAC. Instead the MRWG delivered a composite map that depicts two different reserve network options (Figure 2-1). This Composite Map depicts the best effort that each representative could propose and remain true to their constituencies. As directed by the ground rules, the MRWG forwarded all areas of consensus, non-agreement and the composite map to the Sanctuary Advisory Council.

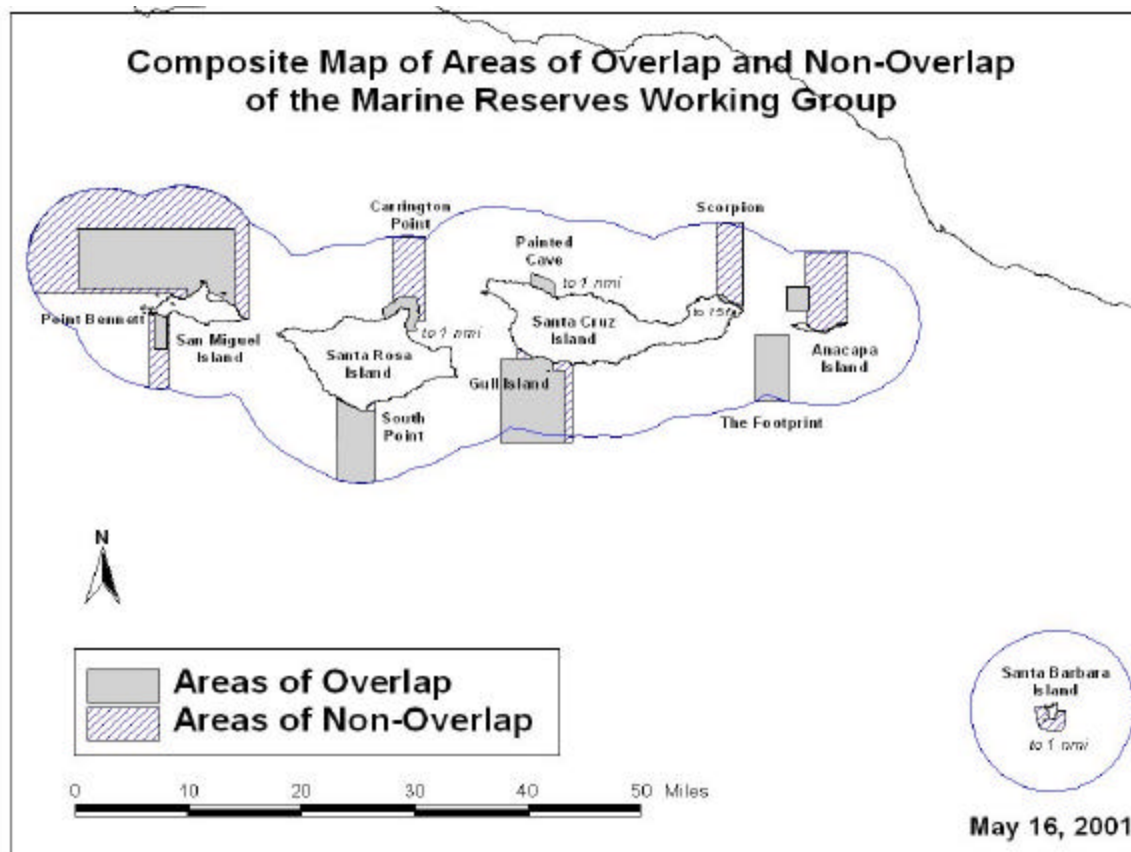


Figure 2-1 Composite Map of Areas of Overlap and Non-Overlap.

The SAC evaluated the MRWG's work and progress, deliberated over two meetings, hosted a public forum on the issue, and forwarded a recommendation to the Sanctuary Manager:

The Channel Islands National Marine Sanctuary Advisory Council (SAC) commends the CINMS staff, Department of Fish and Game (DFG) and all participants of the MRWG, Science and Socio-Economic Panels on their efforts over the past two years. The SAC finds that the MRWG, in seeking consensus on marine reserves, developed scientific and socio-economic data that should be used and built upon in

future consideration of such issues. The SAC finds that the MRWG process was open, inclusive and community based.

By a vote of 17-1-1, the Sanctuary Advisory Council agreed to:

- Formally transmit the full public record of the MRWG and the SAC regarding the development of reserves in the CINMS to the Sanctuary Manager;
- Charge the Sanctuary Manager and Department of Fish and Game staff to craft a final recommendation consistent with the Marine Reserve Working Group's consensus agreements for delivery to the Fish and Game Commission in August 2001;
- Request that the Sanctuary Manager and Department of Fish and Game work with the community to the maximum extent feasible in crafting this recommendation.

With this guidance, the Department and Sanctuary crafted a draft reserve network, and sent it out to the SAC, former MRWG, Science Panel, Socio-Economic Panel members and public seeking further input. Several meetings were held with constituent groups, including the SAC Conservation Working Group, Fishing Group and Ports and Harbors Working Group. The Department and Sanctuary also met with former MRWG members and written comments were received and considered.

In preparing a recommendation for the Fish and Game Commission, the Department and Sanctuary used the MRWG consensus agreements as well as the MRWG Composite Map of Areas of Overlap and Non-Overlap as a foundation. The recommendation proposed a network of Marine Protected Areas in the same general locations as the MRWG Composite Map. This recommendation became the proposed project.

2.6.3 CEQA Process

Section 15087 of the CEQA guidelines requires that the draft document be available for public review no less than 45 days. **Public review period began on May 30, 2002 and was scheduled to close on July 15, 2002. The Commission extended the review period for the Draft ED an additional 48 days and the final close date was September 1, 2002.** During this review period, the public is **was** encouraged to provide written comments regarding the draft document to the Department of Fish and Game, 1933 Cliff Drive, Suite 9, Santa Barbara, CA 93109. ~~Additionally, oral testimony will be accepted by the Commission at the June 20, 2002 meeting located in South Lake Tahoe, California.~~ **The Commission, in turn, solicited written and oral comments regarding the proposed project and Draft ED at a public hearing on August 1, 2002, in San Luis Obispo.**

The Draft Environmental Document (Draft ED) ~~will be~~ **was** sent to the State Clearinghouse at the Governor's Office of Planning and Research and circulated for a ~~45~~ **94**-day comment period. During the comment period, public hearings ~~will be~~ **of the Fish and Game Commission were** held to provide the public with the opportunity to give oral comments on the Draft ED. The Draft ED evaluates the important social, economic, and environmental effects that may result from the proposed action. It focuses on cause and effect relationships, providing sufficient evidence and analysis for determining the magnitude of effects and ways to minimize harm to the environment. After the close of the comment period, the Draft ED ~~will be~~ **was** revised based upon comments received. A ~~The~~ **The** Final ED (Final ED) ~~will be~~ **was** prepared ~~and circulated for a 45-day review period~~ **after the close of the 94**-day review period. Comments on the Final ED are collected and considered by the Commission prior to making a final decision. ~~The Commission will certify the Final ED after the close of the comment period.~~ At ~~That~~ **the** point ~~the~~ **the Commission certifies the Final ED**, a Notice of Completion will be sent to the State Clearinghouse.

2.7 Areas of Concern

The public comments received throughout the MRWG process and during the public information and discussion forums have raised the following concerns:

General Concerns

- Do reserves allow use of public trust resources?
- Proximity of MPAs to ports or major access points may cause problems if users are required to travel over greater distances, or in dangerous conditions.
- Transit through and anchoring in reserves should be allowed to maintain safe navigation and shelter from storms.
- Are other management alternatives for protection more appropriate? (i.e., use of limited take areas, size, length, season and bag limits).
- Boundaries need to be clear and easily recognizable.

Science Concerns

- What is the status of empirical versus theoretical literature and science of reserves?
- Is there a scientific method to determine appropriate reserve sizes and locations?
- Will the extra pressure on non-reserve areas create crowding or congestion of fishing effort?
- Is it more appropriate to take a species specific versus a habitat or ecosystem management approach?
- Do Reserves act as insurance against fishery management uncertainty, human threats (oil spills) and environmental events (El Niño)?

- What are the long-term environmental and economic benefits versus short term economic costs?
- What are the effects of reserves on highly migratory or pelagic species?

Administrative Concerns

- Is there adequate funding for administration, monitoring and evaluation and enforcement of reserves?
- Reserves create a need for Biological and socio-economic monitoring.
- Cooperation between State and Federal resource management agencies is critical to the success of reserves.
- Adaptive management should be used, including reviewing the efficacy and impacts of reserves.
- Reserves must be integrated into existing harvest management.
- It is critical to keep the community involved after reserves are established.

Economic Concerns

Many fishermen, especially commercial fishermen, expressed concerns about the many outside forces and internal forces that they believe are affecting their ability to maintain sustainable fisheries. Many issues were obtained from the ethnographic data survey conducted for the Sanctuary (Kronman, et al. 2001). These issues are summarized below:

Outside Forces

- Poor Asian economy is affecting the ability to sell fish overseas.
- Strong U.S. dollar
- International competition may eliminate markets if U.S. fishermen can not supply during closed seasons.
- Increased cost-of-living in coastal areas creates a need for more income.
- El Niño events create natural fluctuations that decrease catch and income.
- Pollution and habitat destruction from coastal development has as much or greater an effect than fishing.
- Conflicts over environmental allocations (sea otters, seals and sea lions, birds) need to be addressed.
- Conflicts among user groups should be dealt with prior to creating new regulations.

Internal forces

- Aging workforce will not be replaced if new participants are not allowed in to the fisheries.
- Industrial organization (buyers and processors with monopoly power over fishermen) leaves little ability to maintain price structures.
- Open access and overcapitalization and biological and/or economic overfishing has lead to economically unsustainable fisheries.
- Will there be financial mitigation to displaced commercial fisheries.

2.8 Issue to be Resolved

The decision before the Commission is whether or not new Marine Protected Areas should be established in State Waters within the Sanctuary. If these Marine Protected Areas are authorized, decisions are needed to specify the locations, sizes, levels of protection and overall extent of the network, and determine the process for its implementation.